

**House File 540 - Introduced**

HOUSE FILE 540  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 92)

**A BILL FOR**

- 1 An Act creating the health care professional lien Act.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 582A.1 Short title.

2 This Act may be cited as the "*Health Care Professional Lien*  
3 *Act*".

4 Sec. 2. NEW SECTION. 582A.2 Definitions.

5 As used in this chapter, unless the context otherwise  
6 requires:

7 1. "*Health care professional*" means a person licensed  
8 pursuant to chapter 148, 148A, 149, 151, or 153, or an advanced  
9 registered nurse practitioner licensed under chapter 152 and  
10 registered with the board of nursing.

11 2. "*Health insurance*" means benefits consisting of  
12 health or dental care provided directly, through insurance,  
13 reimbursement, or otherwise, and including items and services  
14 paid for as health care under a hospital or health service  
15 policy or certificate, hospital or health service plan  
16 contract, or health maintenance organization contract offered  
17 by a carrier, including limited scope dental benefits provided  
18 under a separate policy; provided however, "*health insurance*"  
19 does not include any of the following:

20 a. Coverage for accident-only, or disability income  
21 insurance.

22 b. Coverage issued as a supplement to liability insurance.

23 c. Liability insurance, including general liability  
24 insurance and automobile liability insurance.

25 d. Workers' compensation or similar insurance.

26 e. Automobile medical-payment insurance.

27 f. Credit-only insurance.

28 g. Coverage for on-site medical clinic care.

29 h. Benefits covering only long-term care, nursing home care,  
30 home health care, or community-based care.

31 i. Limited scope vision benefits provided under a separate  
32 policy.

33 j. Coverage only for a specified disease or illness.

34 k. A hospital indemnity or other fixed indemnity insurance.

35 l. Other similar insurance coverage, as specified in federal

1 regulations or by rule of the commissioner of insurance, under  
2 which benefits for medical care are secondary or incidental to  
3 other insurance coverage or provide for coverage of limited  
4 scope benefits other than limited scope dental benefits.

5 **Sec. 3. NEW SECTION. 582A.3 Lien created.**

6 1. Every health care professional who renders any service  
7 in the treatment, care, or maintenance of any injured patient  
8 shall have a lien upon all claims and causes of action  
9 of the injured patient for the amount of the health care  
10 professional's charges up to the date of payment of damages to  
11 the injured patient, if the injured patient meets the following  
12 requirements:

13 a. The patient's injuries are due to an accident or  
14 intentional act by a third party, which is not covered by the  
15 workers' compensation Act in chapter 85, 85A, or 85B.

16 b. Either of the following:

17 (1) The patient does not have health insurance.

18 (2) The patient's health insurance carrier has denied  
19 payment for services provided by the health care professional  
20 and the health care professional is not prohibited from  
21 pursuing payment from the patient under the terms or any  
22 agreement between the health care professional and the  
23 patient's health insurance carrier.

24 2. The injured patient or the injured patient's legal  
25 representative or attorney shall notify the health care  
26 professional at the time services are rendered, or as soon  
27 as practicable thereafter, that the patient's injuries were  
28 sustained in an accident or were the result of an intentional  
29 act by a third party. In addition, the notification shall  
30 include the date of the accident or intentional act, the  
31 persons, entities, or insurers allegedly liable for the injured  
32 patient's damages, and the name and contact information for the  
33 injured patient's attorney or legal representative, if any.

34 **Sec. 4. NEW SECTION. 582A.4 Written notice of lien.**

35 A lien shall not be effective unless a written notice

1 containing the name and address of the injured patient, the  
2 date of the accident or intentional act, the name and address  
3 of the health care professional, and the name of the party  
4 allegedly liable for the injured patient's damages is served on  
5 both the injured patient and the party against whom the claim  
6 or right of action exists. Service shall be made by certified  
7 mail or restricted certified mail, as defined in section  
8 618.15, or in person. A copy of the notice shall be mailed  
9 to the injured patient's attorney or legal representative  
10 provided the patient has previously provided the health  
11 care professional with the name and address of the patient's  
12 attorney or legal representative.

13 Sec. 5. NEW SECTION. **582A.5 Lien payments.**

14 Payments under the lien created under this chapter shall be  
15 made directly to the health care professional.

16 Sec. 6. NEW SECTION. **582A.6 Items to which lien attaches**  
17 **— enforcement.**

18 1. A health care professional's lien under this chapter  
19 shall, from and after the time of the service of the lien  
20 notice, attach to any verdict, judgment, award, settlement,  
21 or compromise secured by or on behalf of the injured  
22 patient related to the injuries treated by the health care  
23 professional. If the verdict, judgment, award, settlement, or  
24 compromise is to be paid over time by means of an annuity or  
25 otherwise, any lien under this chapter shall be satisfied by  
26 the party obligated to compensate the injured patient before  
27 the establishment of the annuity or other extended payment  
28 mechanism.

29 2. a. A settlement made by and between the patient and  
30 the persons, entities, or insurers allegedly liable for the  
31 injured patient's damages shall not discharge the lien against  
32 any money due or owing by such person, entity, or insurer to  
33 the patient or relieve the person, entity, or insurer from  
34 liability by reason of such lien unless any of the following  
35 apply:

1     *b.* The settlement also provides for the payment and  
2 discharge of such lien.

3     *c.* A written release or waiver of any such claim of lien  
4 is signed by the health care professional and either of the  
5 following apply:

6       (1) The written release or waiver is filed in the court  
7 where an action has been commenced against the persons,  
8 entities, or insurers allegedly liable for the injured  
9 patient's damages.

10      (2) The written release or waiver is delivered by certified  
11 mail or restricted certified mail, as defined in section  
12 618.15, or in person to such persons, entities, or insurers  
13 allegedly liable for the injured patient's damages, if no court  
14 action has been commenced against the persons, entities, or  
15 insurers allegedly liable for the injured patient's damages.

16     3. *a.* After the filing and mailing of a health care  
17 professional's lien notice, any person, entity, or insurer  
18 who makes any payment to an injured patient or to the injured  
19 patient's attorneys, heirs, or legal representatives as  
20 compensation for the injury sustained from the accident or  
21 intentional act without paying the health care professional  
22 the amount of the health care professional's lien recoverable  
23 pursuant to section 582A.3, or so much thereof as can be  
24 satisfied out of the money due under any final judgment or  
25 compromise or settlement agreement, shall, for a period of one  
26 year from the date of payment to such patient or the patient's  
27 heirs, attorneys, or legal representatives, be liable to such  
28 health care professional for the amount of the health care  
29 professional's outstanding lien. The health care professional  
30 may, within such one-year period, enforce the lien by filing an  
31 action at law against such person, entity, or insurer making  
32 any such payment.

33     *b.* In any action filed by a health care professional  
34 pursuant to paragraph "a" to enforce the lien, the health care  
35 professional shall be entitled to recover reasonable attorney

1 fees and the costs of any such action.

2 4. In the case of multiple claims to payments filed under  
3 this chapter and chapter 582, priority shall be given to  
4 hospital liens filed pursuant to chapter 582.

5 EXPLANATION

6 This bill creates the "Health Care Professional Lien Act".

7 The bill provides that every health care professional who  
8 renders any service in the treatment, care, or maintenance  
9 of any injured patient shall have a lien upon all claims and  
10 causes of action of the injured patient for the amount of the  
11 health care professional's charges up to the date of payment  
12 of damages to the injured patient, if the injured patient's  
13 injuries are due to an accident or intentional act by a third  
14 party, which is not covered by the workers' compensation Act  
15 in Code chapter 85, 85A, or 85B and either the patient does  
16 not have health insurance or the patient's health insurance  
17 carrier has denied payment for services provided by the health  
18 care professional and the health care professional is not  
19 prohibited from pursuing payment from the patient under the  
20 terms or any agreement between the health care professional and  
21 the patient's health insurance carrier. The bill also provides  
22 that in the case of multiple claims to payments filed, priority  
23 shall be given to hospital liens filed pursuant to Code chapter  
24 582.

25 The bill provides that the injured patient or the injured  
26 patient's legal representative or attorney is required to  
27 notify the health care professional at the time services are  
28 rendered, or as soon as practicable thereafter, that the  
29 patient's injuries were sustained in an accident or that were  
30 the result of an intentional act by a third party. The lien is  
31 not effective unless the notice containing the name and address  
32 of the injured patient, the date of the accident or intentional  
33 act, the name and address of the health care professional,  
34 and the name of the party alleged to be liable to provide  
35 compensation to the injured patient is served on both the

1 injured patient and the party against whom the claim or right  
2 of action exists. A copy of the notice is required to be mailed  
3 to the injured patient's attorney or legal representative.

4 Payments under the lien are to be made directly to the health  
5 care professional.

6 The bill provides that a health care professional's lien  
7 shall, from and after the time of the service of the lien  
8 notice, attach to any verdict, judgment, award, settlement, or  
9 compromise secured by or on behalf of the injured patient. If  
10 the verdict, judgment, award, settlement, or compromise is to  
11 be paid over time by means of an annuity or otherwise, the lien  
12 shall be satisfied by the party allegedly liable to compensate  
13 the injured patient before the establishment of the annuity or  
14 other extended payment mechanism.

15 The bill provides that a settlement made by and between  
16 the patient and the persons, entities, or insurers allegedly  
17 liable for the injured patient's damages does not discharge the  
18 lien against any money due or owing by such person, entity,  
19 or insurer to the patient or relieve the person, entity, or  
20 insurer from liability by reason of such lien unless the  
21 settlement also provides for the payment and discharge of  
22 such lien or a written release or waiver of any such claim  
23 of lien, signed by the health care professional, is either  
24 filed in the court where an action has been commenced against  
25 the persons, entities, or insurers allegedly liable for the  
26 injured patient's damages, or delivered by certified mail or  
27 restricted certified mail, as defined in Code section 618.15,  
28 or in person, to such persons, entities, or insurers allegedly  
29 liable for the injured patient's damages if no court action has  
30 been commenced.

31 The bill provides that after the filing and mailing of a  
32 health care professional's lien notice, any person, entity, or  
33 insurer who makes any payment to an injured patient or to the  
34 injured patient's attorneys, heirs, or legal representatives as  
35 compensation for the injury sustained without paying the health

1 care professional the amount of the health care professional's  
2 lien shall, for a period of one year from the date of payment  
3 to such patient or the patient's heirs, attorneys, or legal  
4 representatives, be liable to such health care professional  
5 for the amount of the health care professional's outstanding  
6 lien. The health care professional may, within such one-year  
7 period, enforce its lien by filing an action at law against  
8 such person, entity, or insurer making any such payment and  
9 may, if such action is filed, recover reasonable attorney fees  
10 and the costs of any such action.

11 The bill defines a "health care professional" as a person  
12 licensed pursuant to Code chapters 148 (physicians and surgeons  
13 or osteopathic physicians and surgeons), 148A (physical  
14 therapists), 149 (podiatrists), 151 (chiropractors), or  
15 153 (dental assistants), or an advanced registered nurse  
16 practitioner licensed under Code chapter 152 and registered  
17 with the board of nursing, and "health insurance" as benefits  
18 consisting of health or dental care provided directly, through  
19 insurance, reimbursement, or otherwise, and including items and  
20 services paid for as health care under a hospital or health  
21 service policy or certificate, hospital or health service  
22 plan contract, or health maintenance organization contract  
23 offered by a carrier, including limited scope dental benefits  
24 provided under a separate policy; however, "health insurance"  
25 does not include coverage for accident-only, or disability  
26 income insurance, coverage issued as a supplement to liability  
27 insurance, liability insurance, including general liability  
28 insurance and automobile liability insurance, workers'  
29 compensation or similar insurance, automobile medical-payment  
30 insurance, credit-only insurance, coverage for on-site medical  
31 clinic care, benefits covering only long-term care, nursing  
32 home care, home health care, or community-based care, limited  
33 scope vision benefits provided under a separate policy,  
34 coverage only for a specified disease or illness, a hospital  
35 indemnity or other fixed indemnity insurance, or other similar

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1 insurance coverage, as specified in federal regulations or by  
2 rule of the commissioner of insurance, under which benefits for  
3 medical care are secondary or incidental to other insurance  
4 coverage or provide for coverage of limited scope benefits  
5 other than limited scope dental benefits.